

Cal/EPA Brownfields Legislation Proposal Overview

- Creates new Chapter in Health and Safety Code (Chapter 6.82) to provide **maximum flexibility** in brownfields cleanup requirements
- Key Features
 - **Liability Limitations**
 - **Voluntary cleanup process** for those not responsible for pollution
 - **Coordination** between State's cleanup agencies (DTSC and Regional Water Quality Control Boards)
 - Changes to other cleanup statutes to **facilitate brownfields cleanups**

Liability Limitations

- **Parallels federal** brownfields law
- **Liability limited** for the following:
 - Innocent Landowners
 - Bona Fide Prospective Purchasers (if they first clean it up)
 - Owners of Contiguous Property
- **Extent** of limitation:
 - Not liable in **third party claims**
 - Government agencies requiring **action beyond “reasonable steps” is limited**

Brownfields Cleanups (Voluntary Cleanup Authority)

- Allows brownfields project proponents to **voluntarily enter oversight agreements** for investigation and cleanup activities
- Creates **more flexible requirements** for brownfields assessments and cleanups

Agency Coordination

- **Requires coordination** between DTSC and the State and Regional Boards
 - **Limits duplication/overlap**
 - **Information sharing**
 - Cleanup Coordination **Red Team**
- Ensures that **all investigations and cleanups address both water and health concerns**
- Ensures all Cal/EPA **land use controls** are **consistent and tracked**

Additional Items for discussion

- Amend **Site Designation process** to:
 - Allow requests from redevelopment agencies, SB 32 local agencies, bona fide prospective purchasers and DTSC or regional boards
 - Streamline process
 - Develop guidelines for establishing advisory committees
- Address the discrepancy between DTSC's and the Regional Boards' **overhead/indirect rate discrepancy**
- Clarify CEQA requirements related to cleanups
- **Tax increment** – Allocate increment of increased property tax revenue generated by a developed brownfield to the local or state governmental entity that expends funds to clean up the brownfield (up to the amount expended).
- **State Brownfields tax incentive** (to parallel federal provisions) - Make environmental cleanup costs fully deductible from State taxes in the year they are incurred, rather than having to be capitalized (Note: the federal incentive expires 12/31/03)
- Gather information on **local government's role in directing cleanups**